

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KURT WARNER,

No. 03:11-CV-598-ST

Plaintiff,

ORDER

v.

UNITED OF OMAHA LIFE INSURANCE
COMPANY, MUTUAL OF OMAHA
INSURANCE COMPANY, and OREGON
PUBLIC BROADCASTING SHORT TERM
AND LONG TERM DISABILITY PLANS,

Defendants.

Richard H. Rizk
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1332 SW Custer Drive
Portland, OR 97219

Attorney for Plaintiff

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1 - ORDER

William T. Patton
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Portland, OR 97204-3158

Attorney for Defendants

HERNANDEZ, District Judge:

Magistrate Judge Stewart issued a Findings and Recommendation (#27) on August 1, 2012, in which she recommends that this Court grant in part Defendants' motion for summary judgment (#10). Judge Stewart recommended that this Court (1) grant the motion for Warner's short-term disability benefits claim, but reserve the issue of attorney's fees and costs; (2) grant the motion for Warner's long-term disability benefits claim, but dismiss the claim without prejudice; (3) find that Warner has met the Proof of Loss Requirements provision of the long-term disability benefits policy; and (4) otherwise deny Defendants' motion. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, I am relieved of my obligation to review the record *de novo*. United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); see also United States v. Bernhardt, 840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge's report to which objections have been made). Having reviewed the legal principles *de novo*, I find no error.

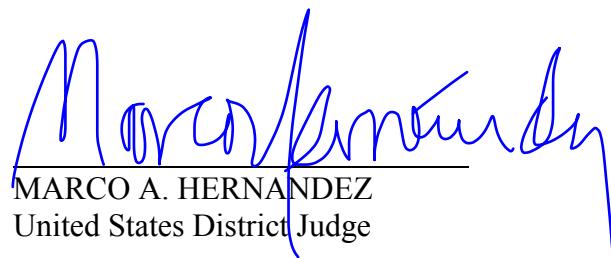
CONCLUSION

The Court adopts Magistrate Judge Stewart's Findings and Recommendation (#27). Accordingly, Defendants' motion for summary judgment (#10) is granted for Warner's short-term disability benefits claim, but the issue of attorney's fees and costs is reserved, and granted for Warner's long-term disability benefits claim, but dismissed without prejudice. Defendants'

motion is otherwise denied. The Court also finds that Warner has met the Proof of Loss Requirements provision of the long-term disability benefits policy.

IT IS SO ORDERED.

DATED this 21 day of August, 2012.



MARCO A. HERNANDEZ
United States District Judge